CITY AND COUNTY OF SAN FRANCISCO
GRAND JURY

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SAN FRANCISCO CIVIL GRAND JURY REPORTS SERIOUS FLAWS IN CRIMINAL JUSTICE SYSTEM BECAUSE OF MUTUAL DISTRUST AND FINGER-POINTING BETWEEN DISTRICT ATTORNEY'S OFFICE AND THE S.F. POLICE DEPARTMENT. ADVERSARIAL ENVIRONMENT LEADS TO REVOLVING-DOOR DISCHARGES, JAIL OVERCROWDING, A FLAWED RE-BOOKING PROCESS AND BUILT-IN CONFLICT OF INTERESTS. PRIOR NEGATIVE REPORTS "BURIED."

The 1995-1996 Civil Grand Jury of the City & County of San Francisco today released a scathing report after nine months of intensive investigation of the criminal justice system in San Francisco and the long-standing situation of mutual mistrust and finger-pointing between the District Attorney's Office and the S.F. Police Department. The report claims that there is something inherently wrong with a criminal justice process which starts out with over 55,000 felony arrests annually, and which ends with fewer than 2,000 cases actually being tried in court.

The Civil Grand Jury uncovered an in-depth prior study, done "pro-bono" by a nationally known management consulting firm (CSC/Index) in 1992-1993, which had been kept "under wraps" by both the District Attorney's Office and the Police Department. The study pointed out many of the flaws in the system which needed remediation, but thus far have been given short shrift. An earlier Coro Foundation report in October 1990 also identified serious faults in the police practices concerning arrest report writing.

The report of this year's Civil Grand Jury has made specific findings and ten (10) recommendations which require definitive responses from the Mayor, the Board of Supervisors, the District Attorney's Office, and the San Francisco Police Department. Copies of this report are immediately available from the Civil Grand Jury Office, Room 100, 633 Folsom Street, San Francisco CA 94107. Attention: Mr. Gary Giubbini, Grand Jury Coordinator, (415) 554-5057.

The Civil Grand Jury is an independent body of 19 citizens who serve for one year under the jurisdiction of the Superior Court. The function of the Grand Jury is to investigate local government. This report of the Grand Jury is one of eleven (11) reports (involving investigations, findings, and recommendations) which will be issued before the expiration of its term on June 30, 1996.

The reports of the 1995-1996 Civil Grand Jury of the City and County of San Francisco are also available on the Internet Web Page at the following address:
http://www.ci.sf.ca.us/courts/C.G./

Paul A. O'Leary, Foreman
1995-1996 Civil Grand Jury
City and County of San Francisco

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CRIMINAL JUSTICE SYSTEM

DISTRICT ATTORNEY AND POLICE DEPARTMENT

Prepared by

San Francisco Civil Grand Jury

1995-96

June 1996

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CRIMINAL JUSTICE SYSTEM
DISTRICT ATTORNEY AND POLICE DEPARTMENT

Summary

The current Criminal Justice System in the City and County of San Francisco is not only inefficient and cumbersome, it perpetuates a long-standing situation of mutual mistrust and finger-pointing between the District Attorney's Office and the Police Department. There is something inherently wrong with a system that, at one end of the criminal justice process, starts with over 55,000 felony arrests per year and ends with fewer than 2,000 cases actually being tried in court. While we fully understand the difference between "probable cause" arrests, jury scrutiny and determination of "beyond a reasonable doubt", there appears to be a lack of common goals and incentives on the part of the District Attorney and the Police Department. There exists an adversarial environment which, unfortunately, is unique to San Francisco, and is manifested in such negative practices as risk aversion, game-playing, and underutilization of current technological information systems tools. The result is revolving-door discharges, jail overcrowding, a flawed re-booking process, and built-in conflicts of interest. It is time for the San Francisco District Attorney's Office and the San Francisco Police Department to work together in a new spirit of comity and cooperation to improve our Criminal Justice System -- with the common goal of freeing the innocent and punishing the guilty.

Background

As a result of conflicting reports regarding the efficacy of the City's criminal justice system, the Civil Grand Jury initiated inquiries into the Criminal Justice System with a major focus on the District Attorney's Office and the Police Department. Our investigation led to parallel conclusions consistent with those already set forth in a comprehensive, professional study conducted by CSC/Index during

1992-1993. The CSC/Index reports[1] (see Appendix A) detail major problems affecting the system -- including a lack of common goals and incentives, an authority/autonomy imbalance, a non-cooperative adversarial environment and inadequate and underutilized information systems tools.
The CSC/Index reports virtually disappeared from circulation and only resurfaced six months after the Civil Grand Jury began making inquiries concerning the criminal justice system. The rediscovery of these reports was disturbing, and precious time was lost conducting extensive observations and interviews among staff in the District Attorney's Office and the Police Department.

The CSC/Index study included first-hand observations, interviews and extensive data collection. The entire criminal justice system, from arrest to disposition, was carefully examined. These reports divide the criminal justice process into two phases.[2] Issues and alternatives in these two phases are explored. In our own investigation, we focused primarily on the front-end phase.

The CSC/Index reports identify the numerous "hand-offs" that occur in the two phases and outline the incredible amount of paperwork which is generated in the process. In our own investigation, it was evident that the quantity of paperwork is a serious threat to the viability of law enforcement. Also the lack of automation for police record keeping exponentially reduces police effectiveness while increasing police administrative overhead costs.

The quality of police report writing remains an issue. Police arrest reports are the cornerstone for the successful prosecution of criminal behavior. Good policing requires good arrest reporting. Effective

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[1] City of San Francisco: Criminal Justice Process Status Report. San Francisco:CSC/Index, February 16, 1992
City of San Francisco: Criminal Justice Process. San Francisco: CSC/Index, January 25, 1993.
City of San Francisco: Reengineering the Criminal Justice System - Final Presentation. San Francisco: CSC/Index, April 15, 1993 (see Appendix A)

[2] Front-end phase -- 1) Give citation/arrest and booking. 2) Detain/release from jail. 3) Dismiss/file charges
Back-end phase -- 1) Arraignment. 2) Pre-trial court events, formal and informal. 3) Trial 4) Post-trial sentence/probation.

criminal prosecution, as practiced by the District Attorney and the Police Department, is at risk.

In October 1990, the CORO Foundation submitted a report [3] to the San Francisco Police Department (see Appendix B) identifying serious flaws in police practices concerning arrest report writing. This document states, in part:

> "It can hardly be denied that the overall quality of reports written by S.F.P.D. is relatively poor. The department has realized serious deficiencies in report-writing and has assigned the Staff Inspection Unit to take vigorous action to pinpoint the problems and devise and implement solutions to these report-writing problems." (p. 6)

Since the CORO Foundation report was issued, the Police Department has enacted changes to address this problem, relying primarily on Police Academy training of new recruits. They have produced a Report Writing Manual within the past three years, as well as redesigning the Report Form itself. During the past year, the Department has also revised its Performance Improvement Program to monitor and improve performance. An accompanying Performance Appraisal Guide has also been revised. However, interviews conducted with various law enforcement personnel indicate that improvements to report-writing practices remain elusive.

The District Attorney's Office claims inadequate police reporting prevents them from prosecuting felons. This is a serious charge. This office contends that investigations of felony cases are hampered by substandard report writing. The Police Department perceives this issue differently. They contend that their paperwork improvements have not resulted in an increase in criminal prosecutions. The Police speculate that the District Attorney is disinterested in pursuing cases deemed "unwinnable". This blame-game is a "black eye" on the face of the criminal justice system.

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[3] Hatamiya, Leslie. The Impact of Proposition 115 on the San Francisco Police Department: A Study Conducted for Assistant Chief of Police Willis Casey. San Francisco CORO Foundation, October 1990. 12p.

Findings - The District Attorney's Office

- The District Attorney does not keep any auditable statistics on the cases which are forwarded to them by the Police Department. They do not track dispositions -- non-re-bookings, reductions in charges, plea-bargains, alternative dispositions, arraignments, trials, etc.

- The District Attorney's Office has no written performance standards nor any objective means of effectively evaluating staff efficiency. It operates on the concept of individual management criteria and informal subjective assessment. There is no formula for distribution or calculation of the workload other than guesswork.

- Standards need to be established for recording information. At present there are no means to correlate or audit the work of the District Attorney, the Police Department, the Sheriff's Department and the Criminal Court System. Any attempt to obtain a complete grasp of our criminal justice system from available statistics is a lesson in futility.

Recommendations

1. The District Attorney must keep accurate, auditable records of the work flow through their office. This should include such categories as the number, classification and Criminal Code sections of arrests, bookings, re-bookings, dispositions, etc. These records also should be indexed to the personnel who handle the cases at each stage and accountable to the time spent on each case by each employee -- as in any private law practice.

2. Disposition information must be routinely relayed to the Police Department so that their records may be completed.

3. An annual statistical report should be published containing this data. One year following the full implementation of this recommendation, an outside performance audit should be performed.

Findings - The District Attorney's Office and the Police Department

- Currently the Police Department has no means of completely tracking their arrests. They receive little, if any, feedback from the District Attorney regarding the quality of their arrest and booking reports. Nor does an officer or station regularly receive information regarding the disposition of an arrest once the case is closed (dismissed, plea-bargained, prosecuted, etc.).

- No statistics are kept in a standardized format by which they may be correlated with any other component of the criminal justice system. True evaluation of the effectiveness of any particular officer or station becomes a matter of subjective, rather than objective, assessment.

Recommendations

4. The Police Department should keep detailed records of each police arrest, including such facts as the charges and disposition. Information from the District Attorney's Office should be recorded before any file is closed. This information should be kept in an auditable manner by Criminal Code section, station, officer, and case.

5. An annual statistical report should be published containing data by station and department. Officer information should be made a part of each personnel file. Two years following full implementation of this recommendation an outside performance audit should be performed.

Finding - The Police Department

- Police incident reports are a continuing problem. Interviews with key City law enforcement officials confirm that a crisis is brewing pertaining to the quality of police arrest reports. This situation, coupled with the avalanche of paperwork associated with the criminal justice process, is very disturbing.

Recommendation

6. The San Francisco Police Department should redouble its efforts to improve police incident reporting. This can be accomplished through a dual approach. First, by using technology to reduce the paperwork burden on the criminal justice system and instituting better management controls (supervision, mentoring, rewarding) over the chain of command responsible for the arresting officers.

   Secondly, all reports which are not re-booked should be reviewed by a designated police officer at the level of sergeant, lieutenant or inspector, and that designated officer should keep a statistical analysis identifying the reasons the reports were not re-booked. All reports not re-booked should be reviewed by the station Captain.

Finding - The Police Department

- On the issue of jail overcrowding, the federal judiciary's intervention has stimulated the system, literally forcing the District Attorney and the Police Department to expedite a case against a suspect within 24 hours of arrest. If the case is not made by investigators within that time, the suspect is released, and no charges are filed. We have serious doubts as to the commitment of the Centralized Investigation Unit, as it presently exists, to improve their efficiency and production. They are under-staffed in terms of investigative personnel, and they lack an adequate number of vehicles and sufficient basic equipment for the investigators to accomplish their tasks in a timely manner.

Recommendations

7. Because of jail overcrowding, suspects must be released after 48 hours if a case is not filed against them. There are over 80,000 police reports per year. We recommend that the Police

Department utilize Section 849b[4] of the Criminal Code to a much greater extent than they are now doing, particularly in non-violent transgressions. This would go a long way toward weeding out cases. Arresting officers can take the suspect to the station, issue an 849b citation and release the suspect with the advisory that, "You may be hearing from the District Attorney.", i.e., issuance of a warrant. This procedure would ease the pressure of jail overcrowding and considerably lower the costs of incarceration during the development of the case.

8. It is our recommendation that the Police Department hire more investigators and provide them with adequate transport, lap-top computers and a sufficient number of telephones and desks with which to conduct their investigations in a professional manner. Top echelon officers of the Police Department need to show the citizenry that they are really serious about the implementation of a Centralized Investigations Unit; they need to do more than merely pay lip-service to this concern.

Finding - Overall

- The Civil Grand Jury has felt stymied, even thwarted, in obtaining various reports and studies which have been developed in recent years on the Criminal Justice System in San Francisco. It would appear that the District Attorney's Office and/or the Police Department are unaware of these previous studies or that they have relegated them to the dustbin (or the "basement files") as being no longer relevant. It would seem that both of these organizations have eschewed the recommendations made in independent studies developed by recognized organizations within the past six years. We cannot determine whether this is because of

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[4] Criminal Code 849b, "Any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever: 1) He or she is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested. 2) The person arrested was arrested for intoxication only, and no further proceedings are desirable. 3) The person was arrested only for being under the influence of a controlled substance or drug and such person is delivered to a facility or hospital for treatment and no further proceedings are desirable." (Last amended 1984.)

historic departmental culture or because of a "not-invented-here" syndrome. The studies to which we refer are the aforementioned CSC/Index studies and the CORO Foundation report. It should be noted that these studies were not voluntarily made available to us by either the District Attorney or the Police Department until their existence was discovered by the Civil Grand Jury. The studies were extremely important in helping us understand the current problems of the criminal justice system in San Francisco. Particularly noteworthy in the CORO Foundation report is Section V which deals with the quality of report writing by the Police Department and its effect on the changes brought about by Proposition 115.[5]

Recommendation

9. At this critical juncture in the governance of the City and County of San Francisco, we feel that the confluence of a newly-elected Mayor, a newly-elected District Attorney, and a restructured Police Department with a new Chief of Police, makes it timely and imperative that an insightful effort be undertaken to streamline the Criminal Justice System. The Mayor is the key player. He must fully support a concerted effort (by a special commission or through an ad hoc study) to coordinate the activities of the District Attorney and the Police Department. The process of arrest-booking-incarceration-trial is seriously flawed. This effort to streamline the criminal justice system should be initiated no later than September 1996; should take into account prior studies; and should be approved by the Mayor and the Board of Supervisors. Enabling legislation or an executive order should be forthcoming within one year of the date of this Civil Grand Jury Report.

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[5] Prop. 115, entitled "Crime Victims Justice Reform Act of 1989", was passed on June 5, 1990 and went into effect the next day. Its primary goal was to expedite the criminal justice trial process, and its provisions include, but are not limited to giving crime victims and all citizens the right to a speedy trial, consolidating cases, streamlining preliminary hearings, allowing experienced police officers to offer hearsay testimony, etc.

Finding - Overall

- Communications between the District Attorney's Office and the Police Department are inefficient, ineffective, and even, at times, disdainful. The personnel in each of these departments does not seem to have a clear understanding of each other's role and purpose, and have no mechanisms in place to reverse this.

Recommendation

10. The District Attorney's Office and the Police Department should begin a more respectful dialogue at the highest levels with attention given to cooperative interaction between patrol officers and assistant district attorneys. The departments should encourage police patrol "ride-alongs" for assistant district attorneys, and police sergeants should work in the Inspections Bureau before reviewing incident reports. The District Attorney should redeploy some assistant district attorneys to police stations in order to complement the work of the police at the station level.

    By instituting such procedures, the District Attorney could learn more about crime problems at the community level. It would also be conducive to preventing problems from proceeding downtown.

Responses Required

Mayor
Board of Supervisors
District Attorney's Office
San Francisco Police Department

APPENDICES

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A CSC/INDEX

1. City of San Francisco, Reengineering the Criminal Justice System, Final Presentation, April 15, 1993 . . . . . A-1 - A-14

2. City of San Francisco, Criminal Justice Process, January 25, 1993 . . . . . A-15 - A-20

3. City of San Francisco, Criminal Justice Process Status Report, February 16,1 1992 . . . . . A-21 - A-26

B THE IMPACT OF PROPOSITION 115 ON THE SAN FRANCISCO POLICE DEPARTMENT, A STUDY CONDUCTED FOR ASSISTANT CHIEF OF POLICE WILLIS CASEY BY LESLIE HITAYAMA, CORO FOUNDATION, OCTOBER 1990 . . . . . B-1 - B-13

City of San Francisco
Reengineering the Criminal Justice System

Final Presentation

April 15, 1993

CSC | Index

Agenda

- Why: Current Situation
- What: New Vision and Alternative
- How: Recommendation
- Next Steps

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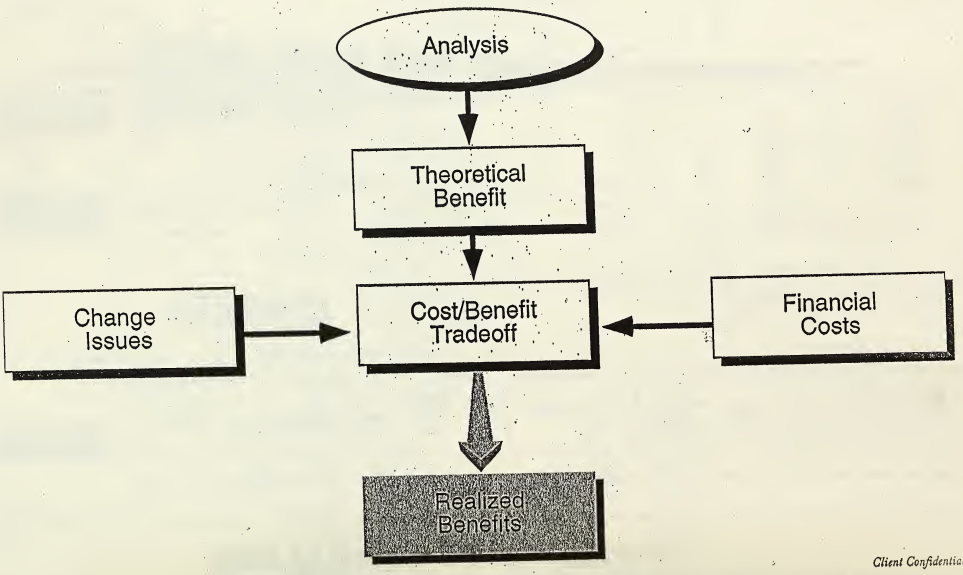
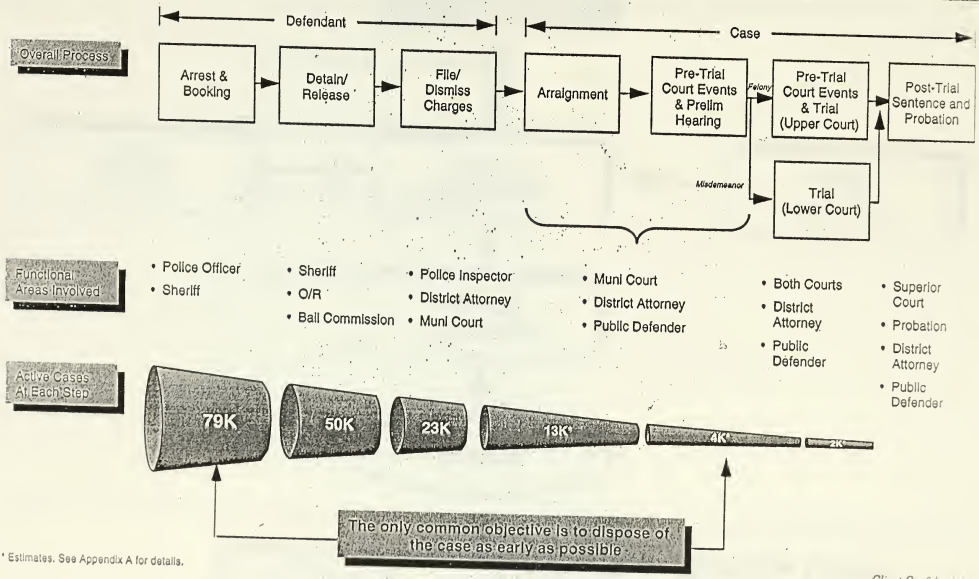
In All Change Campaigns, the Theoretically Possible Is Balanced Against Change Costs

2



Client Confidential

The Current Criminal Justice System in San Francisco Is Inefficient...

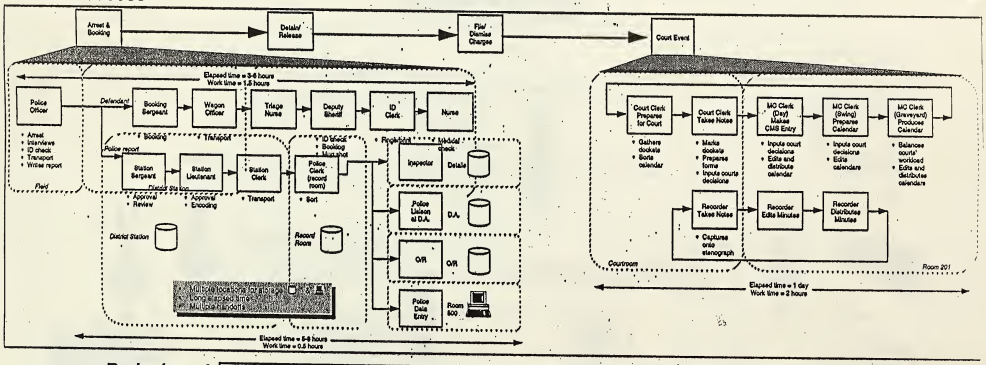


* Estimates. See Appendix A for details.

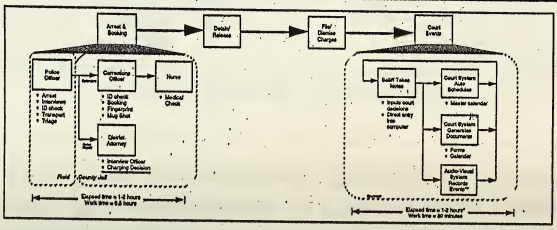
...Complex and Has Many Handoffs

4

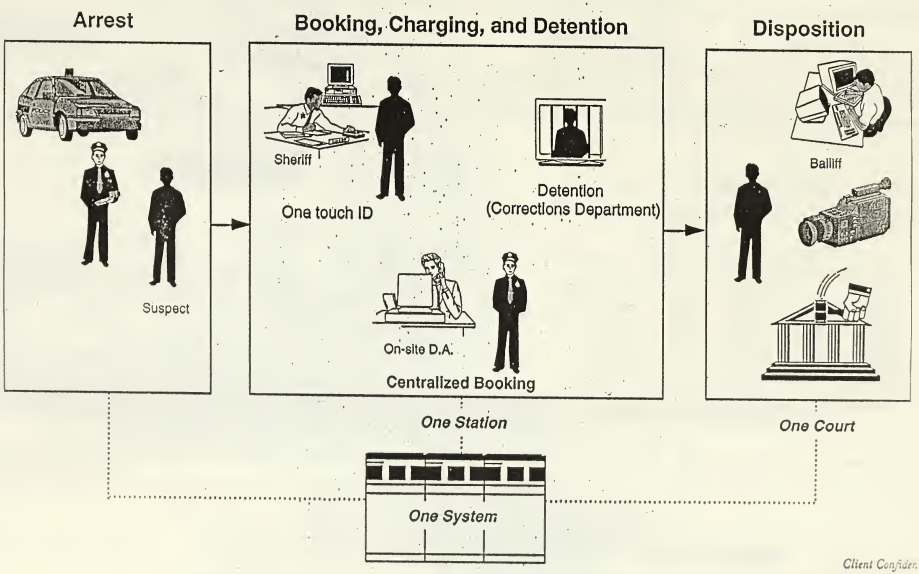
Current Process



Redesigned Process



We Recommend a Complete Redesign of the San Francisco Criminal Justice System



The Potential Benefits of the New Process Are Significant

- Total potential annual savings: $35M
  - $25M staff
  - $10M non-personnel
- More police on the streets: 300 officers
- Public safety improved
  - Faster identification of dangerous criminal
  - Improved resource allocation
  - Increased capacity of the system

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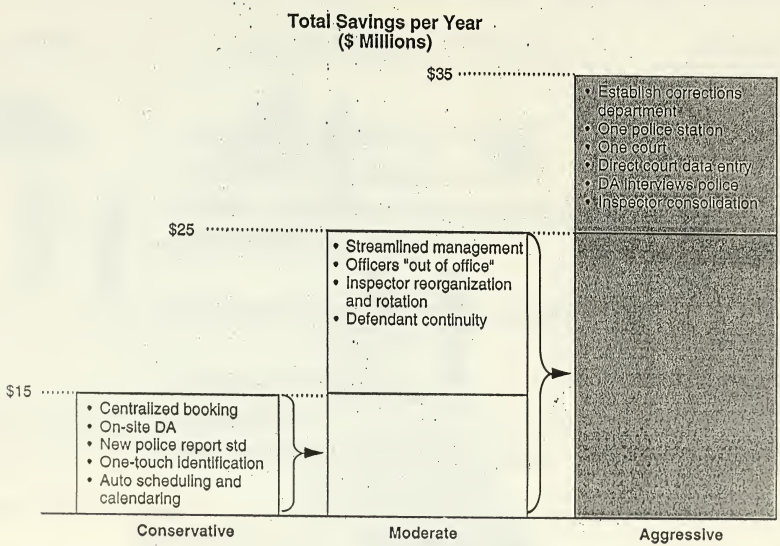
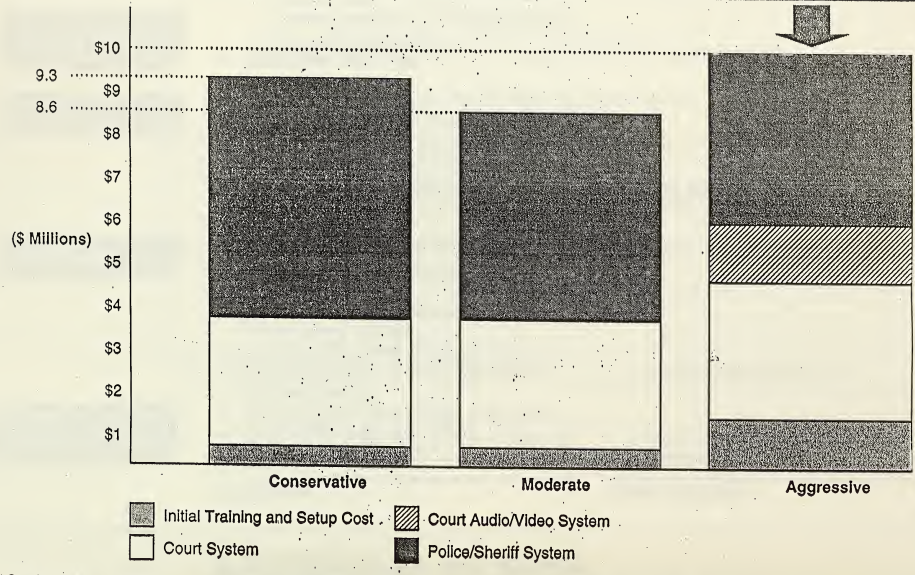
This Vision Can Be Implemented in Stages Depending on the City's Appetite for Change...



Note: Appendix D provides detail of savings
Appendix E provides bullet point discussion

... And Will Require a $10 Million Investment*...



* See Appendix C for details

...As Well As Requiring Very Difficult Decisions To Be Made

	Decisions	Considerations
Organizational Changes	• New reporting structure • Reconfigure district stations (CPOP) • Allow lateral transferrals of outside professionals** • Rotate sergeants and inspectors • Consolidate investigation to fewer specialized details • Upgrade recruiting standards	• Potential police concerns • Public reaction • Charter amendment (?)
Policy	• Implement centralized booking • Patrol take on more (general) investigation • Performance-based promotion** • Require officer residency, or allow non-resident recruitment	• Incentive changes? • Consent decree (?) • State constitutional amendment
Funding	• Make $10M investment*	
Cross Functional Negotiation	• Negotiate with DA: – On-site resources – Police interview to substitute for police report • Lobby for audio/video court record	• Judges' cooperation • Court recorders' concerns

* See Appendix C
** Pending consent decree investigation

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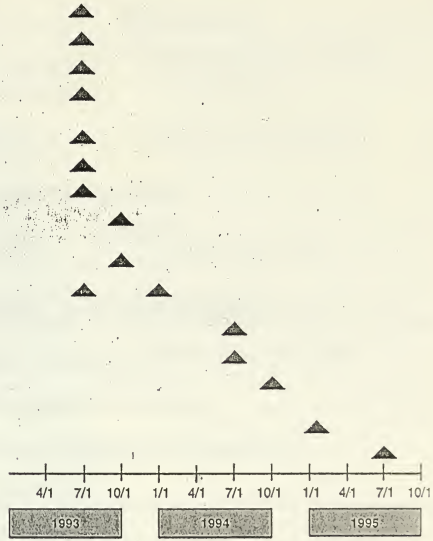
A New System Needs To Be Procured

- Central, shared system is key (SANJIS functionality)
- **Vendor packages** cover **80%** functionality*
- Cross-functional **process** and **technology** focus required
- Estimated cost: $8.5 Million** (excludes training)
- Estimated timeframe:
  - Police/Sheriff System 2 years
  - Courts/DA/Probation System 2 years

* See Appendix G for more details
** Systems cost only. See "Investment Overview" in Appendix C

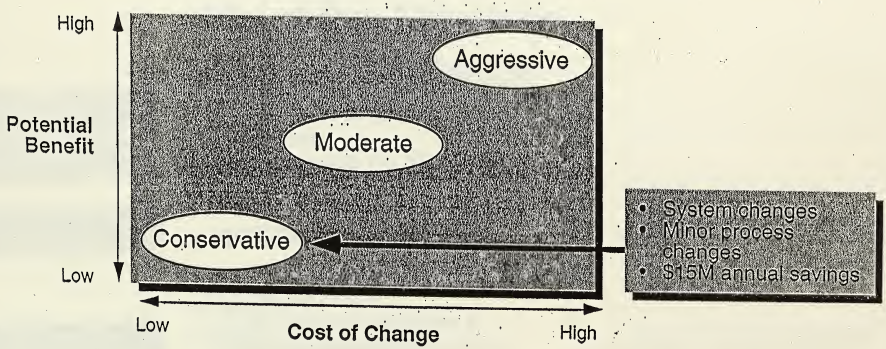
The Entire Solution Could Theoretically Be Implemented in Three Years...

- Centralized booking
- On-site DA
- New police report standard
- One-touch ID (commit funding)
- Auto scheduling and calendaring
- Defendant continuity
- Streamlined management
- Inspector reorganization and rotation
- DA interviews police
- Reconfigure district stations/One police station
- Inspector consolidation
- One court
- Officers "out of office" ("civilianize")
- Direct court data entry
- Establish Corrections Department



Note: See Appendix H for details

These Benefits Must Be Weighed Against the Costs of Change



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At a Minimum, We Recommend Pursuing the Conservative Option

	Decisions	Considerations
Policy	• Establish centralized booking • Police report completed at booking	• Physical facility limitation
Funding	• Make $9M investment*	
Cross Functional Negotiation	• Negotiate with DA for on-site resources • Police Chief to develop police report standards • Lobby for Master Calendaring in Municipal Court	

* See Appendix C

City of San Francisco

Criminal Justice Process

January 25, 1993

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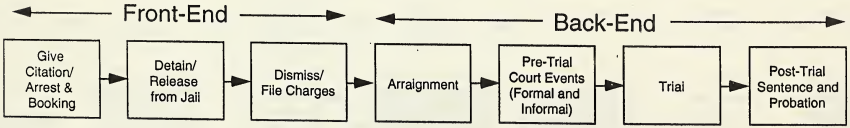
There Are Different Issues Between the Front-End And the Back-End of the Process

	The Front End	The Back End
Purpose	• Identify defensible cases	• Dispose cases so that they do not go to trial
Decisions	• Arrest or give citation • Detain or release • File or dismiss charge	• Bargain or not • Types of charges to pursue • Sentence type and severity

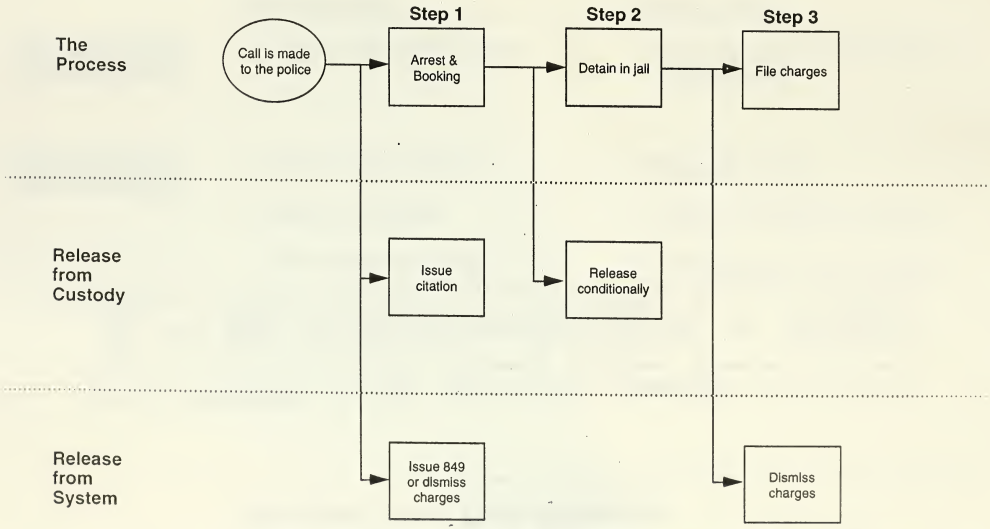
*Note: This is not part of the PRC contract

The Criminal Justice Process Can Be Divided Into Two Phases

1



The Front-End Phase Is A 3-Step Process, With Key Decision Points Along the Way



The Arrest and Booking Process Is Characterized by Numerous Hand-Offs, Excessive Paperwork and Multiple Redundancies

- Performs pat search
- Runs ID check
- Communicates charges
- Takes suspect to station house
- Temporarily locks up suspect

- Runs ID check
- Check warrant
- Files suspect's property
- Approves charges
- Releases suspect*
- Reads standard guidelines on when to book

- Radios dispatcher of departure and arrival
- Takes property to county jail

- Asks questions about medical condition

- Enters booking and information onto CMS
- Stores property into closet or safe
- Takes picture

- Takes fingerprint (if necessary)
- Sends new fingerprints to AFIS
- Matches with existing fingerprints

- Discusses issues on triage form

Document(s) Generated

- Citation

- Booking card
- Police report
- Property form (7-part)
- Property bag

- Intoxicated inmate evaluation and treatment record/ neuro check record
- Triage county jail medical services form

- Prisoners' transfer record
- "information for arrested persons" form

- Request for Manual CII and/or FBI file copy from ID Bureau
- Bureau of Identification form
- SF Police fingerprint card
- FBI fingerprint card
- CII fingerprint card
- Record jacket
- Palm print

- Jail medical service intake screening form

Indicates redundancy

* Only police officer making the arrest has this authority

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Moreover, There Are Many Issues Related to the Arrest and Booking Process

Identify Suspect

- Too many individuals involved in processing
- Suspects tend to lie about their identity

Suspect Transport

- Police officer transports suspect to two places: station house and county jail

Property Tracking & Storage

- Many forms are used, e.g. 7-part personal property form
- Duplication of storage at police station and sheriff's office

Capturing Info About Arrest

- Incomplete or poorly written police reports
- Cannot transmit information directly to Sheriff's department
- Suspect info recorded manually on field arrest card
- Suspect not providing all the information at the arrest site–may reveal other information during the interview

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City of San Francisco

Criminal Justice Process Status Report

February 16, 1992

CSC | Index

Agenda

- Activities to Date
- Observations and Issues
- Next Steps

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We Are On Track in Our Investigation...

- Walked through the arrest, booking and arraignment process
- Observed municipal court proceedings
- Interviewed staff from sheriff, municipal court, superior court, probation, DA, and police
- Gathered data on preliminary process flows and performed cost analysis

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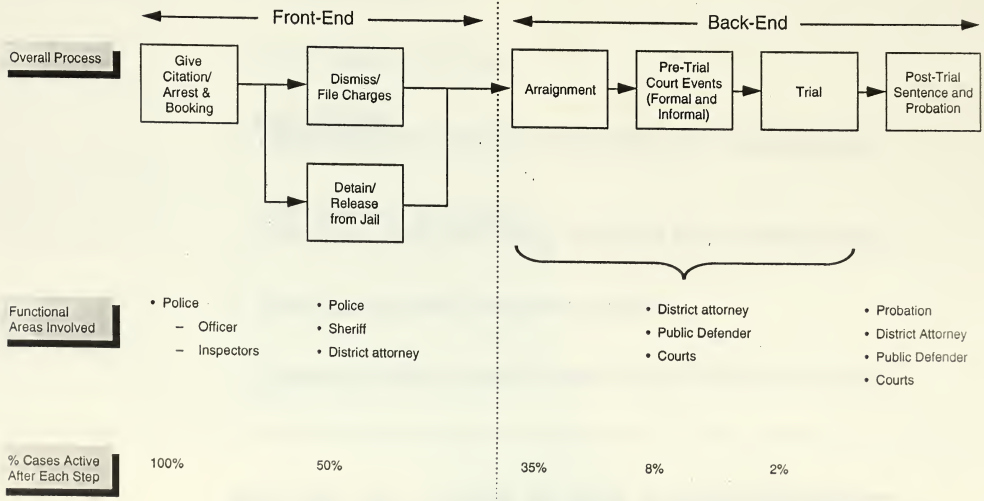
...And Are Examining the Entire Process from Arrest to Disposition



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We Observed Some Major Drivers of System Inefficiencies Which Have Costly Consequences

Major Drivers

- No common goals/incentives
- Authority/autonomy imbalance
- Non-cooperative, adversarial environment
- Risk aversion
- Inadequate and underutilized I/S tools
- Civil service restrictions
- Game-playing

Manifestations (Examples)

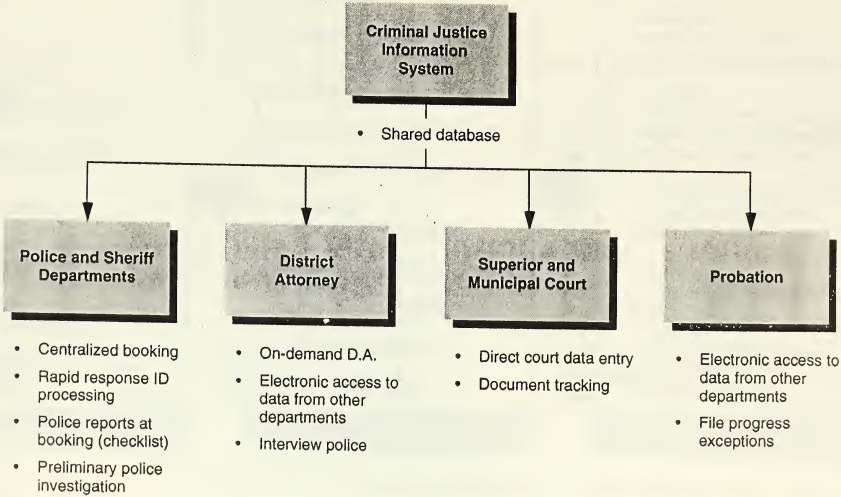
- Quick discharge
- Jail overcrowding
- Independent judges
- Powerful police commanders
- Sheriff acceptance of suspects
- Different court calendering
- CYA, 50% rebooking
- Probation's own 300,000 index cards
- Inability to let go
- $50K clerk

Consequences

- Duplication of effort
  - Fourteen clerks calendering for the courts
  - Five clerks in D.A. managing redundant records
- Tracking of paper files
  - 7.5 clerks filing and retrieving for the courts
- Long processing time
  - Two weeks for police report to reach the D.A.'s office
- 25% of bench warrant no shows are in custody elsewhere
- Lots of hand-offs
  - Six individuals involved in booking

Client Confidential

One Vision Might Entail a Single Police, Legal and Court System



THE IMPACT OF PROPOSITION 115 ON THE SAN FRANCISCO POLICE DEPARTMENT

A Study Conducted for
Assistant Chief of Police Willis Casey

By

Leslie Hatamiya
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October 1990

Memorandum

San Francisco Police Department

TO: **Assistant Chief of Police Willis Casey**
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DATE: October 5, 1990

SUBJ: The Impact of Proposition 115 on the San Francisco Police Department

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I. ASSIGNMENT

From September 10 to October 3, 1990, I studied, analyzed, and forecasted the effects of Proposition 115 on the S.F.P.D., as it relates to overtime costs, investigative and report-writing procedures, and training. For the purposes of this study, I interviewed department employees -- from the Field Operations Bureau, the Bureau of Inspectors, the Planning, Training, Fiscal, Legal, and Consent Decree Divisions, and the Staff inspection Unit -- assistant district attorneys, and public defenders; went on three ride-a-longs with patrol officers from the Central, Northern, and Mission stations; spent a day with on-call General Works inspectors; talked with staff members and sat in on classes at the Police Academy; and observed the felony rebooking process in the District Attorney's office. The findings and conclusions that I make in this report are the collective results of my discussions with various members of the department and my observations of the current policies and workings of the S.F.P.D.

II. BACKGROUND ON PROPOSITION 115

Entitled the "Crime Victims Justice Reform Act of 1989," Proposition 115 was passed on June 5, 1990, by the people of the state of California, and went into effect the next day. As advocated by the state's district attorneys and police chiefs, the primary goal of the initiative is to expedite the criminal justice trial process through a number of changes in California criminal law. Proposition 115 encompasses a wide range of issues in the criminal justice system, and its provisions include:

(1) giving crime victims and all citizens the right to a speedy trial;
(2) creating and defining the crime of "torture";
(3) consolidating cases so that a criminal charged with several crimes, or several criminals charged with the same crime, can be tried in one trial;
(4) allowing a criminal to go directly to trial after being charged by a Grand Jury, eliminating pretrial hearings;
(5) amending the California State Constitution so that criminal defendants receive no more than the rights and protections granted by the United States Constitution;

(6) increasing penalties for specified murders, clarifying some special circumstance requirements, increasing maximum punishment of minors who commit first-degree murder to life without parole, and providing for no parole before 25 years for killers sentenced to 25 years to life;
(7) eliminating the necessity of the prosecution in a murder trial (where the death penalty or life in prison without parole are being sought) to prove that during the commission of a rape, child molestation, robbery, burglary, etc., that the criminal actually intended to kill the victim;
(8) requiring the trial court, rather than the attorneys, to conduct the voir dire examination of potential jurors;
(9) requiring court-appointed defense attorneys to prepare cases within reasonable time limits set by a judge;
(10) mandating reciprocal discovery, so that the defendant in a criminal case must reveal to the prosecution the evidence the defense intends to use in court; and
(11) streamlining preliminary hearings, allowing experienced police officers to offer hearsay testimony.

Although the constitutionality of Proposition 115 is presently being challenged in the state courts, the preliminary indication is that the California State Supreme Court intends to uphold the initiative. According to the District Attorney's office, there is little question over the federal constitutionality of Proposition 115.

III. PROPOSITION 115 AS RELATED TO THE S.F.P.D.

The last two provisions, those relating to changes in discovery and preliminary hearings, are the most relevant to the S.F.P.D.:

A. Reciprocal Discovery Provisions. The purpose of the initiative's discovery provisions is to require both the prosecution and the defense to exchange witness information and real evidence at least 30 days before trial, saving time and money and reducing inconvenience to witnesses. According to the District Attorney's office, it should also contribute to a reduction in the number of trials as it tends to replace the element of surprise enjoyed by defendants with a return to a search for truth in trials. The discovery provision not only calls for a reciprocal disclosing of materials, but also makes more explicit the materials that the prosecution must hand over to the defense. It requires the prosecution to disclose the names and addresses of trial witnesses, statements of those witnesses and of the defendant, reports of experts, real evidence seized, felony convictions of critical witnesses, and any exculpatory evidence. At the same time, the discovery provision forbids the defense attorney from disclosing to the defendant the address or phone number of a victim or witness whose name was disclosed to the attorney.

B. Preliminary Hearings. With the changes in preliminary hearings, police officers who have five years of experience or who satisfactorily complete a one-hour P.O.S.T. (Peace Officers Standards and Training) course can now offer hearsay testimony on behalf of other police officers, victims, witnesses, and experts in a preliminary hearing. The goal of this part of Proposition 115 is to provide for a quick and efficient probable cause hearing with minimal inconvenience to victims and witnesses. For the Police Department, the benefit is that now only one officer needs to be subpoenaed to a single preliminary hearing, whereas in the past up to a dozen or more officers, depending on the nature of the case, could be subpoenaed. This could greatly reduce the department's court overtime budget, since the bulk of officers subpoenaed to court are for preliminary hearings and most of those subpoenaed must appear in court in their off-hours.

III. CHANGES IN INVESTIGATIVE AND REPORT-WRITING PROCEDURES

To both comply with the changes in discovery law and take advantage of the fiscal savings of hearsay testimony, the San Francisco Police Department needs to make seven significant changes in its investigative and report-writing procedures:

(A) A "witness list" containing the name, address, and a brief summary of testimony of every victim, witness, law enforcement official, and expert related to a case must be filled out by the officer completing the preliminary investigation.

(B) The addresses and phone numbers of all victims and witnesses in a case must be removed from the incident report forms. Changes (A) and (B) are to ensure that the proper discovery information is handed over to the defense attorney within the set time limits, but that witness and victim information other than name is not revealed to the criminal defendant.

(C) Copies of all criminalistics, medical doctor, and forensics reports must be included in the investigation report, as well as documentation of each expert's credentials. The reports must be handed over to the defense as part of discovery; an expert's credentials will allow a police officer to give hearsay testimony on behalf of the expert in preliminary hearings.

D. The criminal histories of all witnesses, including pending and existing probations, must be collected and presented to the District Attorney's office at the time of rebooking, so that the information can be provided to the defense at the time of arraignment, which is the current procedure in San Francisco.

* (E) The preliminary incident report needs to be changed so that one reporting officer no longer writes a general narrative of the facts involved. Instead, each officer, victim, witness, and if possible, suspect, writes a first-person statement detailing the facts of his/her involvement in the case. Officers must include all exculpatory evidence in their statements, as it must be handed over to the defense. A reporting officer is responsible for collecting all the individual statements, for assisting victims, witnesses, and suspects in writing coherent, complete, and accurate statements, and for completing the incident report form and the witness list. To take advantage of the hearsay provisions, individual first-person statements are necessary since, according to the District Attorney's office, the preliminary indication of local judges is that only first-level hearsay will be admissible under Proposition 115. In addition, the District Attorney's office sees the first-person statements as the "ideal police report," under the theory that the more complete the preliminary report, the better the case the inspectors can put together, leading to a better judgment on arrests and a stronger case in court.

(F) Supervisors will be responsible for completing a review summary sheet for each case, which will primarily consist of a check list covering the status of all victims, suspects, property, vehicles, etc., involved in a case, to ensure that all the proper information and materials have been gathered during the preliminary investigation. It will also contain a brief summary of the basic facts of the case for easy reference. This summary will, in essence, replace the general narrative now written by the reporting officer.

(G) The present system of handling misdemeanor cases must be changed. At present, no inspector is assigned to do a follow-up investigation on a misdemeanor case. However, with Proposition 115, a mechanism by which expert reports, criminal records, real evidence, and exculpatory evidence are collected and presented to the District Attorney's office at the time of rebooking is needed. Either the police officer doing the preliminary investigation must be made responsible for collecting these materials, or else an inspector must be assigned to do a complete investigation in misdemeanor cases.

IV. CONSEQUENCES OF CHANGES IN INVESTIGATIVE AND REPORT-WRITING PROCEDURES

In theory, two phenomena will potentially occur as a result of these changes in report-writing and investigative procedures: (1) a decrease in the court overtime budget, as fewer officers are subpoenaed to testify at preliminary hearings, and (2) a combination of an increase in patrol overtime and a decrease in the amount of time patrol officers actually spend on the streets, due to an increase in the time it takes to complete and write up a preliminary investigation. In addition, some training will be required to update all police officers on the changes in report forms and investigative responsibilities.

A. A Decrease in Court Overtime. With both the discovery and hearsay provisions, the S.F.P.D. stands to save hundreds of thousands of dollars annually in overtime costs. A simple cost analysis of current court overtime expenditures reveals that the department can potentially save over $600,000 a year if the number of police officers subpoenaed per preliminary hearing is reduced from the present average of 2.73 to one, with the one officer giving hearsay testimony on behalf of all other officers involved in the case.

It is important to note that all figures used in this calculation are averages and estimates obtained from the Fiscal Division's overtime records, the Legal Division's officer subpoena records, and the District Attorney's office. Because no office in the S.F.P.D. or the District Attorney's office keeps records of the amount of overtime paid for police officers to appear specifically at preliminary hearings, the following figures are only *round estimates* of potential overtime savings.

S.F.P.D. sworn officers presently spend approximately 1900 overtime hours in court each two-week pay period. Of the cases at which officers are subpoenaed to testify, about two-thirds are for preliminary hearings. As a result, the department pays for about 1267 hours of overtime for preliminary hearings. However, on the average two-thirds of the 4.1 witnesses subpoenaed to testify at a single preliminary hearing, or 2.73, are presently sworn officers. If that number were reduced to one officer per preliminary hearing with the hearsay provision of Proposition 115, the department would only have to pay for about 464 hours of court overtime for preliminary hearings in each pay period. Consequently, right now over $38,000 is being spent each pay period for officers to testify at preliminary hearings, but with Proposition 115, that amount could be reduced to about $14,000, saving the department about $24,000. Over one year (or 26 pay periods), that savings could amount to about $624,000.

With one officer testifying for a number of other officers and witnesses, it is also possible that the number of cases making it to full trial will decrease. Since only one officer needs to testify at any given preliminary hearing, the District Attorney will most likely subpoena the "best" witness possible; that is, the one who has the best grasp of the facts of the case and who will do the best job of presenting the information in court. It will be much more difficult for the defense to point out inconsistencies in the case, without being able to cross-examine witnesses in the preliminary hearings. In addition, the changes in report-writing procedures, including first-person statements, will provide the inspectors and District Attorney's office with a more complete picture of the crime, allowing the inspectors to do a more thorough investigation and the District Attorney's office to make a better judgment on whether to press charges or drop the case. As a result of these two factors, the prosecution is apt to have a much stronger case in a preliminary hearing and the defense more willing to plea-bargain. Thus, fewer cases may potentially go to full trial, which will further decrease the S.F.P.D.'s

court overtime costs. However, it is not possible at this time to predict how much those costs will decrease.

(B) **An Increase in Report-Writing Time.** The above-listed changes in preliminary investigations will most likely result in an increase in the time it takes patrol officers to complete their initial reports, since more forms will have to be filled out and each officer involved in a case will have to write his/her own personal statement, as opposed to one officer writing a general narrative that includes the actions of all officers involved. However, it is impossible to estimate how much longer it will take an officer to complete a report. It will vary on a case by case basis, depending on the nature of the crime and the people involved. Obtaining written statements from each witness, victim, and suspect may require additional time, as officers may have to assist those who cannot speak or write English well or at all. Cases involving multiple witnesses, victims, and/or suspects, such as a multiple-car accident, may especially place a heavy time burden on a reporting officer. In cases involving hostile or emotional victims, witnesses, or suspects, such as a fight or a domestic violence case, it may be difficult and require a large amount of time and energy on behalf of an officer to obtain accurate written statements.

The increase in report-writing time will likely have a combination of results. On the one hand, patrol overtime will likely increase, as officers may have to continue past the end of their shifts to complete reports. This potential increase in street overtime may negate the savings in court overtime accrued from hearsay testimony, although there is no way at this time to quantify how much patrol overtime will increase. In addition, the S.F.P.D. may experience a significant decrease in the time patrol officers are actually out on the streets, responding to calls and patrolling the city's streets. Furthermore, the changes will require patrol sergeants to spend a considerable amount of time on reviewing and summarizing reports, since they will be responsible for the supervisor's summary sheet of every report.

In addition, the need for either a patrol officer or an inspector to handle misdemeanor investigations will require additional time and money. At present no one is responsible for investigating misdemeanor cases. But with Proposition 115, a system must be created in which patrol officers who write the preliminary report or assigned inspectors collect the necessary expert reports, criminal records, real evidence, and exculpatory evidence. This increase in investigation time will either lead to an even greater decrease in street time for patrol officers and an increase in patrol overtime, or a rechanneling of inspector time and resources from felony investigations to specifically handling misdemeanor cases.

A significant increase in the time it takes officers to write preliminary reports may have serious implications for the understaffed and underbudgeted S.F.P.D., as officers already feel pressure to finish reports quickly and get back out on the streets as soon as possible. The departments admits that it is presently understaffed by at least 160 patrol officers and that response time to calls can be more than a few hours on a Friday or Saturday night. As it is now, patrol officers in the busiest districts, like Central, Northern, and Mission, have little time to just patrol their assigned area, as they are constantly responding to calls that can be backed up on a list 30-50 long at one station on a given evening. With nearly 150 officers recently promoted to sergeant and inspector, the patrol officer ranks are even more depleted than usual. In addition, paperwork already consumes a large percentage of a patrol officer's day, as it can presently take from a half hour to three or four hours for a more complex case involving booking a large quantity of evidence to write an incident report. More comprehensive report-writing procedures may exacerbate this already serious problem of patrol officer shortages.

(C) **Necessary Training.** Additional training will be necessary to update all police officers of the investigative and report-writing procedure changes. At a minimum, it should

consist of an introduction of the new procedures, an explanation of properly completing the new forms, and a review of writing and taking witness statements and of all elements of a crime that should be recorded. Since the changes are primarily changes in format and officers have already been taught the skills necessary for the changes in basic training, the training need not be extensive nor place a high financial burden on the department. Training can consist of a combination of roll-call training and advanced officer in-service training; roll-call training should take place as soon as possible to brief officers of the changes, since it will probably take a full year for all officers to go through advanced officer training at the Police Academy. In addition, the basic training report-writing classes will have to be slightly restructured in order to incorporate all of the new changes.

V. THE PRESENT QUALITY OF REPORT-WRITING AND ITS EFFECT ON PROPOSITION 115 CHANGES

In order to fully understand the impact of changes in report-writing and investigative procedures, it is necessary to examine the present quality of police reports being written.

A. **Poor Report-Writing.** It can hardly be denied that the overall quality of reports written by the S.F.P.D. is relatively poor. The department has realized serious deficiencies in report-writing and has assigned the Staff Inspection Unit to take vigorous action to pinpoint the problems and devise and implement solutions to these report-writing problems. In a review of eight of the nine district stations over the past year, 259 incident reports were randomly examined to reflect the quality of work throughout the department. Although the results vary from station to station, together they demonstrate that S.F.P.D. report-writing has much room for improvement. For example, at one station, 42 percent of reports reviewed failed to identify all parties involved, 73 percent failed to describe all prior, present, and past action of the incident, and 63 percent failed to adhere to department policies, rules, procedures, and guidelines. At another station, 31 percent of reports reviewed lacked the elements of the crimes listed in the type of incident box. And at another station, 40 percent of reports reviewed lacked accurate dates, times, and places of initial incidents, and 50 percent failed to establish all elements of the Corpus Delicti. In addition, many reports contained grammatical, sentence structure, and spelling errors.

B. **Factors Behind Poor Report-Writing.** No single reason can be given for the deficiency in report-writing by S.F.P.D. members. The following is a brief list of the most important factors:

1. Lack of Writing Ability. A small percentage of officers do not have adequate writing skills needed to write a complete police report upon graduation from the Police Academy. According to Police Academy staff, roughly a third of recruits write at or below the eighth grade level when they enter the Academy, although by the time they leave at least 75 percent are at the twelfth grade level.

It is likely that the recruiting policies of the S.F.P.D., especially the San Francisco residency recruitment requirement, contribute in part to the low-level of writing and language skills of the department's officers. Although the department's efforts to recruit a diverse police force, reflective of the community it serves, is commendable, limiting recruitment to San Francisco residents only greatly minimizes the department's ability to attract the most qualified police force possible. Other big-city police departments recruit statewide or nationwide, widening the pool of eligible and qualified recruits.

2. **Perpetuation of "Concise Reports" School of Thought.** Basic training report-writing classes at the Police Academy stress being as complete as possible when writing reports, following the credo that "too much is better than too little." However, the "old school" of report-writing stressed being as concise as possible in reports. This school of thought is perpetuated by peer pressure from older members of the police forces who advise new officers that being concise "is the way we do it on the streets." In addition, field training officers also encourage new officers to write brief reports, in essence advising new officers to forget the report-writing techniques they learned at the Academy.

3. **No Clear Mission of the S.F.P.D.** What is the mission of the S.F.P.D.? From my discussions with numerous members at all levels of the department, I was unable to find any kind of consensus as to what the ultimate goal of the police force is. Everyone in his/her own mind had a vision of the police department's purpose -- from fighting crime to making arrests to preserving the quality of life in the urban environment -- yet they all varied somewhat. The S.F.P.D. lacks a department-wide mission statement that is known an understood by all members of the force. This lack of a clearly defined mission has created a problem on the level of individual officers; if an officer does not understand what the mission of the department is, how can he/she know what his/her role is in fulfilling that mission? As a result, many officers see the point of the police department only from their own job perspective. Moreover, they do not see the connections between their own responsibilities and those of other members of the force in fulfilling the overall mission of the department. In relation to report-writing, patrol officers do not see the long-range implications of a poorly written preliminary report. They do not clearly realize the link between the report they write and the arrest they may make, the follow-up investigation an inspector will do on the case, and the conviction the district attorney seeks. Some patrol officers are mainly concerned with making arrests and getting back out on the street to make more arrests, not realizing that a poorly written report of an arrest can lead the district attorney's office to decide against pressing charges against a suspect.

4. **Laziness.** From my observations, it seems that for many patrol officers, writing reports is the most tedious part of their job, as they would rather be on the street than in the station house filling out forms and writing narratives. If they have no incentive to write complete reports, they will write the most concise and least time-consuming report possible.

5. **Lack of Proper Supervision.** Finally, and perhaps most importantly, patrol officers write poor reports because they are allowed to write poor reports due to a lack of supervision on the part of patrol sergeants and lieutenants. Too infrequently do supervisors return deficient reports to officers for revision; too often they accept reports that lack basic elements of the crime, identification of all parties involved, description of all events related to the crime, and other essential information. Too often supervisors stress getting reports written quickly and getting back on patrol, many times at the expense of well-written reports. Without sergeants and lieutenants demanding them to write the most accurate and complete reports possible, many patrol officers see little reason to put forth the time and energy to do so. It is the patrol officer who is writing poor reports, but it is the sergeant and the lieutenant that lets that officer write the poor report. If they can get away with writing less than adequate reports, many officers will.

C. **Possible Consequences of Poor Report-Writing in Relation to Proposition 115 Changes.** The worst case scenario is that if report-writing does not improve -- if the department makes the aforementioned changes in report-writing procedures,

including the taking of first-person statements of all parties involved, but the reports are still deficient -- the District Attorney's office will not use hearsay testimony in the preliminary hearings, but instead will need to subpoena each officer involved in order to uncover all facts in the case, as it presently does. If that happens, the department will face an increase in report-writing and investigative time and therefore a decrease in street time, without the benefit of decreased court overtime costs. In essence, the S.F.P.D. could be worse off than it already is now, both fiscally and in terms of patrol response to calls. Thus, for the department to fully realize the benefits of Proposition 115, the quality of report-writing must improve. It is not enough for the department to just change its report-writing procedures; a complete overhaul of the way reports are written, reviewed, and thought of must take place as well.

D. Possible Effects of Proposition 115 Changes on the Quality of Report-Writing. On the bright side, it is possible that the Proposition 115 report-writing changes will lead to an improvement in the quality of S.F.P.D. reports. Hopefully, the first-person statements will compel officers to write more complete reports and include more detail and vivid description of the facts surrounding a crime. A clearer picture of what happened at the crime scene is more likely to emerge if each officer is responsible for recording what he/she specifically did and saw, rather than having one officer write a general narrative of all events surrounding the crime, which often leads to uncertainty as to who did what when and where.

In addition, having supervisors complete review summary sheets for each report will potentially lead to increased accountability and supervision. Supervisors will no longer be able to just check off a report without thoroughly reading it. The summary sheet will ensure that a supervisor checks to see that all the proper information and materials have been gathered during the preliminary investigation. Also, the supervisor will have to read all the written statements in order to write a brief summary of the basic facts of the case. If the supervisor cannot ascertain the basic facts of the case from the statements because of conflicting facts or lack of clarity and detail, he/she will need to have the officers rewrite the statements so they are complete and accurate.

VI. RECOMMENDATIONS FOR IMPLEMENTATION

In order to comply with the changes in criminal law brought about by Proposition 115 and to take advantage of the initiative's hearsay provisions, changing a few investigative and report-writing procedures is not enough. The S.F.P.D. needs to address the roots of the problems that it presently has with poor report-writing. In essence, police officers need to completely revamp the way they approach and think about writing and reviewing reports. To put it simply, the changes brought about by Proposition 115 must be coupled with improvements in report-writing for the Department to comply with the changes in law.

The Staff Inspection Unit has taken a sound and ambitious first step in reaching this goal with its nine-point plan for eliminating report-writing deficiencies. In addition, the newly instituted platooning system should lead to more accountability in report-writing, as platoon commanders are now responsible for overseeing specific sergeants and patrol officers.

I offer the following additional suggestions to coincide with the Proposition 115 report-writing changes:

A. Widen the Recruit Pool As Soon As Possible. It is in the department's best interest to attract the most qualified recruiting classes as possible. However, the requirement that recruits live in San Francisco when applying to the police force hinders the department's ability to draw the most well-educated and highly motivated individuals that it can. By

widening the recruitment pool to either the nine Bay Area counties or the entire state of California, the S.F.P.D. will still be able to create an ethnically and racially diverse police force, as required by the Consent Decree, while at the same time increasing the eligible pool of qualified applicants.

B. Articulate a Clearly Defined Mission Statement. Once officers have a common understanding of the S.F.P.D.'s overall mission, it will be easier for them to understand what their role in that mission is. And a better understanding of their own role will give them a broader perspective of the importance of complete and comprehensive report-writing.

C. Increase Interaction Between Patrol Officers, Inspectors, and the District Attorney's Office. The best way for officers to fully understand the importance of well-written reports is for them to have a first-hand view of all parts of the criminal justice system. Patrol officers need to see for themselves what happens to a case once they make the initial report. They need to see how a well-written report can help an inspector build up a strong case and the District Attorney's office make a better decision on whether to press or drop charges in a case. Conversely, it would be beneficial for members of the District Attorney's office, who often complain about the poorly written police reports, to experience what it is like for an officer on patrol, to see first-hand the time and people constraints on uniformed officers. As a result, I recommend that the department establish a program in which patrol officers, inspectors, and assistant district attorneys spend days shadowing each other to learn more about each other's jobs and responsibilities. For example, assistant district attorneys would do ride-a-longs with patrol officers, while patrol officers would spend days following inspectors or watching the rebooking process in the District Attorney's office.

D. Take Advantage of Recent Promotions. The recent promotions to positions of sergeant and assistant inspector provide the department with a rare opportunity to (1) further the lines of communication between inspectors and patrol officers, and (2) strengthen the supervision of patrol sergeants. Inspectors tend to have a better understanding of the importance of well-written report, because of their role as investigators and their interaction with the District Attorney's office, than patrol officers do. About 50 officers were just promoted to assistant inspector, and most probably still have friends in patrol that they keep in contact with and see socially. The department should encourage these new inspectors to stress the importance of complete reports to their fellow officers still on patrol and utilize this line of communication to let patrol officers know that poorly written reports will no longer be tolerated. In addition, with the influx of new patrol sergeants, the department has the opportunity to train a fresh new set of sergeants who have not become accustomed to the cursory glance and sign off method of reviewing reports. From the beginning they can be trained to hold report-writing to the highest level of scrutiny to ensure well-written reports.

E. Final Suggestions. I suggest that as the department begin to institute changes in report-writing and investigative procedures as required by Proposition 115 that it first do trial runs of the new procedures at selected stations to pinpoint and iron out any problems that may arise with these changes. I also advise the department to keep in close contact with the District Attorney's office while making the changes to ensure that all changes meet the provisions of Proposition 115. Finally, the department should implement the changes in a timely fashion, as the law went into effect four months ago and the department stands to benefit greatly from them.

VII. CONCLUSIONS

If implemented correctly, the changes in investigative and report-writing procedures required by Proposition 115 could provide the impetus for a major overhaul in the quality of report-writing by

the S.F.P.D. as well as a significant reduction in court overtime costs. As stated earlier, it is not enough for the department to merely change its report forms and procedures; these changes must be coupled with a strengthening in supervision and an increase in the quality of writing demanded of patrol officers for the department to accrue the benefits of Proposition 115.

The short duration of my internship with the S.F.P.D. limited my ability to fully study in depth all effects of Proposition 115 on the department. Although I feel that I have adequately analyzed the basic impact of Proposition 115 on report-writing and investigative procedures, court expenditures, and training, a number of questions remained unanswered in my mind. Had I had the time, I would have interviewed more patrol officers and spent more time both on patrol and shadowing inspectors. Also, I would have liked to have observed patrol officers trying out report-writing changes to see how difficult and how much time it would take for them to complete the different forms, to write first-person statements, and to assist witnesses and victims in writing statements. I would have spent more time at the Police Academy, talking to recruits and sitting in on report-writing classes. It also would have been beneficial to talk to other police departments to find out what they are doing to adapt to the changes in law brought about by Proposition 115.

I hope this report provides you with insightful and informative observations and analysis of Proposition 115's effects on the S.F.P.D. Thank you for the opportunity to contribute my thoughts and findings to the department's handling of Proposition 115.

SOURCES

Interviews:

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